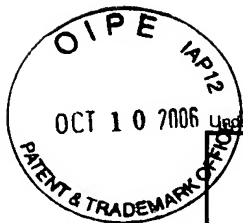


OCT 11 2006



PTO/SB/21 (09-04)

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/669,894-Conf. #2236	
	Filing Date	September 23, 2003	
	First Named Inventor	Robert M. Soule, III	
	Art Unit	2876	
	Examiner Name	U. C. N. Le	
Total Number of Pages in This Submission	16	Attorney Docket Number	283-392.12

## ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Communication to Record Substance of Interview (3 pgs.), Certificate of Express Mail and Return Mail Room Postcard
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	WALL MARJAMA & BILINSKI LLP		
Signature			
Printed name	George S. Blasiak		
Date	October 10, 2006	Reg. No.	37,283

### Transmittal

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV887058578US, on the date shown below in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 10, 2006

Signature:

(Barbara A. Saltzman)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV887058578US, on the date shown below in an envelope addressed to: MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 10, 2006

Signature:

*Barbara A. Saltsman*  
(Barbara A. Saltsman)

Docket No.: 283\_392.12  
(PATENT)



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Robert M. Soule, III

Application No.: 10/669,894

Confirmation No.: 2236

Filed: September 23, 2003

Art Unit: 2876

For: Symbol Generator For Generating  
Programming Bar Code Symbols

Examiner: U. C. N. Le

**COMMUNICATION TO RECORD SUBSTANCE OF INTERVIEW**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Madam:

A telephone interview was held on September 26, 2006 between Examiner Uyen Chau N Le and applicants' representative George S. Blasiak.

Applicants' representative began the interview by reading the following statement: "The interview will be focused on a limited number of issues for purposes of reducing the time of the interview, and for purposes of expediting an allowance. The focused nature of the interview will not be taken as an indication that arguments for unpatentability by the Examiner not discussed are conceded to be correct and appropriately made. Applicants expressly reserve the right, later in prosecution of the present application or another application, to challenge the propriety of the outstanding office action on grounds not discussed in the interview."

Applicants' representative also read the following requirements for establishing *prima facie* obviousness: "According to *MPEP* §2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." (emphasis added) *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

After the above statements were read, applicants' representative noted each pending independent claim recites an "encoder" related element encoding according to certain claims, a symbol, and according to certain other claims, a bar code or codes. Applicants' representative noted that in the Office Action of July 11, 2006 the Examiner had applied the teachings at column 23 of U. S. Patent No. 6,026,397 to Sheppard ("Sheppard") with reference to the encoder element of each claim. The applicants' attorney argued that the Examiner has misinterpreted the teachings of Sheppard as being related to an encoder of the types specified in applicants' claims.

Applicants' representative noted that it appeared that the relied upon section of Sheppard described an encoder for encoding a neural network and not an encoder of any of the various types specified in the claims. Applicants' representative read the following representative text from Sheppard: "Dialogue box 436 may be used to encode the input parameters and specify the minimum and maximum input parameter values and the number of neurons on which the input parameter is to be input." (column 23, line 47-50)

In response to the arguments presented by applicants' representative, the Examiner indicated that the Examiner concurred with the applicants' representative that

the Examiner's reliance of Sheppard as providing a teaching relating to an encoder as specified in any one of the pending claims was improper.

The Examiner further indicated that the outstanding rejections based on Sheppard would be withdrawn pursuant a formalized communication by the applicants responding to the July 11, 2006 office action and summarizing the telephone interview.


Accordingly, in view of the above remarks, applicants believe the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Dated: October 10, 2006

Respectfully submitted,

By   
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GSB/bs